

II.

Heretofore, on or about September 19, 2000, Barry Keith Ewing, owner of Ewing Concrete, was working as a concrete contractor at a job site located at the southeast corner of U.S. Highway 67 and U.S. Highway 59 in Texarkana, Texas. The premises on which Ewing was working was owned and controlled by Powell. Powell was also the general contractor on the work that was being done and Ewing was a subcontractor under Powell, doing the concrete work necessary to be done for the erection of the building and improvements, which Powell wanted completed on the above described premises. Ewing, as subcontractor, rented the use of Custom Concrete's truck-mounted concrete boom truck. The truck-mounted boom was rented at an hourly rate and Eddie Huschelpeck, an employee of Custom Concrete, was the driver of said concrete boom truck working under the direction and supervision of Powell and Ewing.

III.

As is described in Plaintiffs' Original Complaint on file herein, an accident ensued while Ewing was doing the work for Powell, the general contractor, on premises owned, controlled, and supervised by Powell. Defendants and Third Party Plaintiffs have denied all liability for said accident, and further, as Third Party Plaintiffs, say that they are entitled to indemnity, or in the alternative to contribution, from Powell for the following negligent and improper conduct of which Powell was guilty to-wit:

- A. The violation of Articles 752.003 thru 752.006 of the Texas Health and Safety Code;
- B. Failing to supervise the work that was being done; and,
- C. Failure to employ sufficient personnel to safely perform the assigned job.

Third Party Plaintiffs say that the acts of negligence above described on the part of Powell

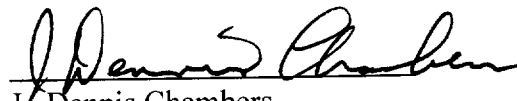
were either the sole proximate cause, a proximate cause, or a contributing cause to the accident which befell Barry Ewing on September 19, 2000, and his resulting death and the damages which are alleged by the Plaintiffs herein.

PRAYER

Third Party Plaintiffs therefore pray that summons issue, compelling Third Party Defendants to appear and answer this Third Party Complaint, and that on trial of this matter, that Third Party Plaintiffs have recovery of complete indemnity and/or contribution from the Third Party Defendants. They further pray for all relief all further relief to which they may be entitled at law or in equity.

Respectfully submitted,

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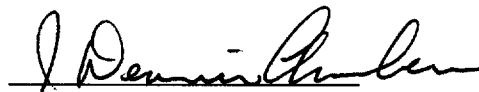
ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned counsel of record for Defendants, hereby certifies that they have forwarded to Plaintiff's Counsel, a true and correct copy of the attached THIRD PARTY COMPLAINT via certified mail, return receipt requested, and all other counsel of record via regular mail on this 13th day of March, 2002.

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J. Dennis Chambers